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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,871	12/09/2003	James S. Voss	200314332-1	6843

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FORT COLLINS, CO 80527-2400

EXAMINER
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WHIPKEY, JASON T

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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07/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/732,871	Applicant(s) VOSS ET AL.	
	Examiner Jason T. Whipkey	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-4, 7-12, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi (Japanese Patent Application Publication No. 05-211655).

Regarding **claims 1, 9, and 17**, Noguchi discloses a digital camera (see Drawing 1 of the attached computer translation), comprising:

a user interface (the user can select his current location; see page 3, lines 40-42);

processing circuitry (see Drawing 3) coupled to the user interface (the selected location is used to select an appropriate white balance profile; see page 3, line 40, through page 4, line 4);

a plurality of predetermined profiles (an amendment data table comprised of white balance corrections based on location and time; see page 3, line 42, through page 4, line 4) stored in the camera; and

wherein the processing circuitry processes geographic location and time data entered into the camera to automatically (i) eliminate profiles that are not appropriate based upon the geographic location and time data (a number of tables are available, each based on a location; when a user selects a location, the others are necessarily eliminated as they are not applicable [see page 3, lines 43-46, and page 4, line 43, through page 5, line 1]), and (ii) select from remaining profiles an optimal one of the profiles based upon the geographic location (see page 3, line 42, through page 4, line 4, and page 5, lines 37-41) and time data (the time is stored by time-of-day circuit 20; see page 4, lines 22-25) without presenting a question to a user (the user initiates the inputting of the current location when the location has changed; see page 5, lines 24-31).

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Noguchi is silent with regard to the processing circuitry implementing instructions stored as firmware.

Official Notice is taken that it is well known in the art to store instructions for image processing as firmware. An advantage of doing so is that firmware can be updated but is insusceptible to erasure resulting from a power loss. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Noguchi's system store instructions in firmware.

Regarding **claims 2 and 10**, Noguchi discloses:

the plurality of profiles comprise a plurality of scene profiles (different tables are used depending on different countries; see page 4, line 43, through page 5, line 1).

Regarding **claims 3 and 11**, Noguchi discloses:

the plurality of profiles comprise a plurality of illumination source profiles (since the sun's current position affects the white balance, values in the table are selected based on the current time; see page 3, lines 26-31, and page 5, lines 6-9).

**Claims 4 and 12** may be treated like a combination of claims 2 and 3 or 10 and 11.

Regarding **claims 7 and 15**, Noguchi discloses that the system:

is configured to select a scene profile (different tables are used depending on different countries; see page 4, line 43, through page 5, line 1).

Regarding **claims 8 and 16**, Noguchi discloses that the system:

is configured to select an illumination profile (since the sun's current position affects the white balance, values in the table are selected based on the current time; see page 3, lines 26-31, and page 5, lines 6-9).

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5. Claims 5, 6, 13, 14, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noguchi in view of Aoki (U.S. Patent No. 5,086,314).

**Claims 5, 13, and 18** may be treated like claims 1, 9, and 17, respectively. However, Noguchi is silent with regard to allowing a user to manually enter geographic location and time data.

Aoki discloses an exposure control device for a camera that determines an appropriate exposure profile based on latitudinal and longitudinal data that can be entered directly by a user (see column 12, lines 6-8). The user is also responsible for entering the time (see column 4, lines 13-17). As stated in column 11, lines 49-57, an advantage of entering this data in is that an appropriate sunrise or sunset time can be calculated and/or corrected, resulting in a more accurate exposure. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Noguchi's camera allow a user to enter a geographic location and time, as described by Aoki.

Aoki is silent with regard to the source used for the latitudinal and longitudinal data.

Official Notice is taken that global positioning systems (GPS) are well-known sources of one's current latitude and longitude. An advantage of using a GPS system to find these coordinates is that they are a very precise source of position data. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the operator of Aoki's system use a GPS to find his or her current position.

**Claims 6, 14, and 19** may be treated like claims 1, 9, and 17, respectively. However, Noguchi is silent with regard to allowing a user to manually enter geographic location and time data.

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Aoki discloses an exposure control device for a camera that determines an appropriate exposure profile based on latitudinal and longitudinal data that can be entered directly by a user (see column 12, lines 6-8). The user is also responsible for entering the time (see column 4, lines 13-17). As stated in column 11, lines 49-57, an advantage of entering this data in is that an appropriate sunrise or sunset time can be calculated and/or corrected, resulting in a more accurate exposure. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Noguchi's camera allow a user to enter a geographic location and time, as described by Aoki.

### *Conclusion*

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:30 P.M. eastern daylight time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye, can be reached at (571) 272-7372. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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July 2, 2007



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SPE. ART UNIT 2622